UNITED STATES DISTRICT COURT FOR THE DISTRICT OF VERMONT

GEORGE W. SIMONDS, Plaintiff,)
v.) File No. 1:10-cv-317-jgm
MICHAEL J. ASTRUE,	<u>'</u>
Commissioner of Social Security,	j
Defendant.)

ORDER

The Magistrate Judge's Report and Recommendation was filed January 11, 2012. (Doc. 26.) After <u>de novo</u> review and absent objection, the Report and Recommendation is AFFIRMED, APPROVED and ADOPTED. <u>See</u> 28 U.S.C. § 636(b)(1).

The Petitioner's motion for remand (Doc. 24) is GRANTED and this case is remanded to the Commissioner of Social Security under sentence six of 42 U.S.C. § 405(g) for reassessment of the evidence and further development of the record in accordance with the Report and Recommendation, including a new hearing and decision.

Upon remand, the administrative law judge (ALJ) shall consider the following new evidence:

- (a) Dr. Richard Root's April 12, 2010 neuropsychological evaluation;
- (b) the treatment notes and August 2010 opinion letter of Maggie Comparetta;
- (c) the June 2010 letter of Lawrence Seavey; and
- (d) the September 2010 statement of John Simonds.

Further, the ALJ shall reconsider each of her findings in light of the new

evidence. Particularly, she shall reconsider her determination to afford great weight to

agency consultant Dr. Patalano's opinion (see AR 266-83, dated June 2008), given that

he did not have in his possession at the time he rendered such opinion all relevant

treatment notes and opinions from Simonds' treating or examining sources, including

those of therapist Maggie Comparetta (see AR 106-09, dated October 2009 through

August 2010, and AR 212, undated), mental health counselor Leona Brown (see AR-

298-304, dated September to November 2008), vocational rehabilitation counselor

Lawrence Seavey (see AR 213-16, dated August 2008 through June 2010, and June

2010 letter which does not appear in record) and Dr. Richard Root (see Doc. 24-1,

dated April 2010).

Because the new evidence may fill some of the gaps noted in the ALJ's initial

decision, it is unnecessary and futile to consider the arguments presented in the parties'

cross-motions filed pursuant to sentence four of section 405(g). (Docs. 12, 19.)

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 16th day of March, 2012.

/s/ J. Garvan Murtha

Honorable J. Garvan Murtha

U.S. District Judge

2